

ORIGINAL

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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

HERBERT S. OLSON,

Plaintiff,

v.

AARON SCHMADEKE, ALYCE  
 SCHMADEKE, dba COTTAGE COFFEE  
 SHOP, BETTY J. OWENS, Trustee of the  
 BETTY J. OWENS REVOCABLE TRUST OF  
 1994, THOMAS E. STITES, as Trustee of  
 the THOMAS E. STITES Trust dated  
 January 28, 1999, and DOES ONE to FIFTY,  
 inclusive,

Defendants.

Case No. **CV 08 0670**  
Civil Rights

COMPLAINT FOR INJUNCTIVE RELIEF  
 AND DAMAGES: DENIAL OF CIVIL  
 RIGHTS OF A DISABLED PERSON IN  
 VIOLATION OF THE AMERICANS WITH  
 DISABILITIES ACT OF 1990; VIOLATION  
 OF CALIFORNIA'S CIVIL RIGHTS  
 STATUTES

JURY TRIAL REQUESTED

Plaintiff HERBERT S. OLSON complains of defendants AARON SCHMADEKE,  
 ALYCE SCHMADEKE, dba COTTAGE COFFEE SHOP, BETTY J. OWENS, Trustee of the  
 BETTY J. OWENS REVOCABLE TRUST OF 1994, THOMAS E. STITES, as Trustee of the  
 THOMAS E. STITES Trust dated January 28, 1999, and DOES ONE to FIFTY, inclusive,  
 and alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction of this action pursuant to 28 USC § 1331 for violations  
 of the *Americans with Disabilities Act of 1990*, (42 USC § 12101, et seq.) Pursuant to  
 pendant jurisdiction, attendant and related causes of action, arising from the same facts, are



also brought under California law, including, but not limited to, violations of **California Health & Safety Code** § 19955, *et seq.*, including **California Code of Regulations**, Title 24, § 19959, **California Civil Code** §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55.

2. Venue is proper in this court pursuant to 28 **USC** § 1391(b) and is founded on the fact that the real property which is the subject of this action is located in this district, at Lakeport, Lake County, California, and that Plaintiff's causes of action arose in this district.

### INTRODUCTION

3. **COTTAGE COFFEE SHOP** is located at 1090 N. Main Street, Lakeport, California. Said restaurant is owned and operated by defendants **AARON SCHMADEKE, ALYCE SCHMADEKE, BETTY J. OWENS, Trustee, THOMAS E. STITES, Trustee, and DOES ONE to FIFTY, inclusive.**

4. Defendants **AARON SCHMADEKE, ALYCE SCHMADEKE, BETTY J. OWENS, Trustee, THOMAS E. STITES, Trustee, and DOES ONE to FIFTY, inclusive,** operate an establishment for services to the public and at which Defendants failed to provide barrier free access to said establishment in conformity with both Federal and California legal requirements. Further, Defendants failed to provide compliance as follows:

1. There is no van accessible parking in violation of California Title 24 §1129B.4 (2), ADAAG 4.6.3.
2. The entrance has no international symbol for accessibility in violation of California Title 24 § 1117B.5.8.1.2, §1128B.3, ADAAG 4.1.5, 4.1.6.
3. The front door hardware requires tight pinching and turning of the wrist in violation of California Title 24 §1133B.2.5.2, ADAAG 4.13.9\*.
4. There is no accessible seating inside or outside the restaurant in violation of California Title 24 § 1122B.2, ADAAG 5.1\*, 5.4.
5. The customer counter inside is too high in violation of California Title 24 §1122B.1, ADAAG 5.2.
6. The men's restroom is inaccessible in violation of California Title 24 §1115B.7, ADAAG 4.16.1.
7. The men's restroom door has no international symbol on the front to indicate accessibility in violation of California Title 24 § 1115B.5, ADAAG 4.30.4\*.



1 The above barriers interfered with Plaintiff's access of the facilities and continue to deter  
 2 Plaintiff from visiting said facilities, and as a legal result, Plaintiff **HERBERT S. OLSON** suffers  
 3 violations of his civil rights to full and equal enjoyment of goods, services, facilities and  
 4 privileges, and has and will suffer embarrassment and humiliation.

### 5 **FACTUAL ALLEGATIONS**

6 5. Plaintiff **HERBERT S. OLSON** is, and at all times relevant to this Complaint is, a  
 7 "physically handicapped person, "physically disabled person," and a "person with a disability,"  
 8 as these terms are used under California law and under federal laws including, but not limited  
 9 to, Title III of the ***Americans with Disabilities Act of 1990***. (The terms "physically  
 10 handicapped person," "physically disabled person," and a "person with a disability" will be used  
 11 interchangeably throughout this Complaint.) Plaintiff is a "person with a disability," as defined  
 12 by all applicable California and United State's laws. Plaintiff **HERBERT S. OLSON** is severely  
 13 limited in the use of his legs.

14 6. Defendants **AARON SCHMADEKE, ALYCE SCHMADEKE, BETTY J. OWENS,**  
 15 **Trustee, THOMAS E. STITES, Trustee, and DOES ONE to FIFTY, inclusive**, at all times  
 16 relevant herein were and are the owners and operators; lessors and/or lessees, franchisers  
 17 and/or franchisees, of public facilities known as the "**COTTAGE COFFEE SHOP**," located in  
 18 Lakeport, California, subject to the requirements of California state law requiring full and equal  
 19 access to public facilities pursuant to ***California Health & Safety Code* § 19955, et seq.,**  
 20 ***California Civil Code* §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55**, and subject to Title III of  
 21 the ***Americans with Disabilities Act of 1990***, and to all other legal requirements referred to in  
 22 this Complaint. Plaintiff does not know the relative responsibilities of defendants in the  
 23 operation of the facilities herein complained of, and alleges a joint venture and common  
 24 enterprise by all such defendants.

25 7. Defendants **AARON SCHMADEKE, ALYCE SCHMADEKE, BETTY J. OWENS,**  
 26 **Trustee, THOMAS E. STITES, Trustee, and DOES ONE to FIFTY, inclusive** (hereinafter  
 27 alternatively referred to collectively as "defendants"), at all times relevant herein were and are  
 28 owners, possessors, builders and keepers of the "**COTTAGE COFFEE SHOP**" in Lakeport,



1 California.

2 8. Defendants **AARON SCHMADEKE, ALYCE SCHMADEKE, BETTY J. OWENS,**  
3 **Trustee, THOMAS E. STITES, Trustee, and DOES ONE to FIFTY, inclusive** are the owners  
4 and operators of the subject "**COTTAGE COFFEE SHOP**" at all times relevant to this  
5 Complaint. Plaintiff is informed and believes that each of the defendants herein is the agent,  
6 employee or representative of each of the other defendants, and performed all acts and  
7 omissions stated herein within the scope of such agency or employment or representative  
8 capacity and is responsible in some manner for the acts and omissions of the other defendants  
9 in legally causing the damages complained of herein, and have approved or ratified each of  
10 the acts or omissions of each other defendant, as herein described.

11 9. Plaintiff **HERBERT S. OLSON** does not know the true names and capacities of  
12 defendants **AARON SCHMADEKE, ALYCE SCHMADEKE, BETTY J. OWENS, Trustee and**  
13 **THOMAS E. STITES, Trustee, and DOES ONE to FIFTY, inclusive,** their business  
14 capacities, their ownership connection to the property and business, nor their relative  
15 responsibilities in causing the access violations herein complained of, and alleges a joint  
16 venture and common enterprise by all such defendants. Plaintiff is informed and believes that  
17 each of the defendants herein, including **DOES ONE to FIFTY, inclusive,** is the agent,  
18 ostensible agent, master, servant, employer, employee, representative, franchiser, franchisee,  
19 joint venturer, partner, and associate, or such similar capacity, of each of the other defendants,  
20 and was at all times acting and performing, or failing to act or perform, with the authorization,  
21 consent, permission or ratification of each of the other defendants, and is responsible in some  
22 manner for the acts and omissions of the other defendants in legally causing the violations and  
23 damages complained of herein, and have approved or ratified each of the acts or omissions of  
24 each other defendant, as herein described. Plaintiff will seek leave to amend this Complaint  
25 when the true names, capacities, connections and responsibilities of defendants **AARON**  
26 **SCHMADEKE, ALYCE SCHMADEKE, BETTY J. OWENS, Trustee, THOMAS E. STITES,**  
27 **Trustee, and DOES ONE to FIFTY, inclusive,** are ascertained.

28 10. Plaintiff is informed and believes that all named defendants, including **DOES**



1 ONE to FIFTY, inclusive, conspired to commit the acts described herein, or alternatively, aided  
2 and abetted one another in the performance of the wrongful acts hereinafter alleged.

3 11. Defendants **AARON SCHMADEKE, ALYCE SCHMADEKE, BETTY J. OWENS,**  
4 **Trustee, THOMAS E. STITES, Trustee, and DOES ONE to FIFTY, inclusive,** are the owners  
5 and operators of the "**COTTAGE COFFEE SHOP,**" located at Lakeport, California. This  
6 restaurant, including, but not limited to, parking spaces and access aisles and access routes,  
7 are each a part of a "public accommodation or facility" subject to the requirements of  
8 **California Health & Safety Code** § 19955, *et seq.*, and of **California Civil Code** §§ 51, 52(a),  
9 54, 54.1, *et seq.* On information and belief, this "**COTTAGE COFFEE SHOP**" restaurant was  
10 constructed after 1990, which has subjected the "**COTTAGE COFFEE SHOP**" restaurant to  
11 handicapped access requirements per **California Health & Safety Code** § 19959, and  
12 applicable portions of **California Code of Regulations**, Title 24, (the State Building Code).

13 12. On or about October 8, 2007, Plaintiff **HERBERT S. OLSON** visited the  
14 "**COTTAGE COFFEE SHOP**" in Lakeport, California for the purpose of dining. Defendants  
15 **AARON SCHMADEKE, ALYCE SCHMADEKE, BETTY J. OWENS, Trustee, THOMAS E.**  
16 **STITES, Trustee, and DOES ONE to FIFTY, inclusive,** interfered with Plaintiff's access to the  
17 "**COTTAGE COFFEE SHOP**" as set forth in Paragraph 4 above.

18 Said acts and omissions denied Plaintiff legal access to the "**COTTAGE COFFEE**  
19 **SHOP**" according to federal and state law.

20 13. Plaintiff's home, in Fallon, Nevada, is approximately 315 miles from the  
21 "**COTTAGE COFFEE SHOP**", in Lakeport, California. Plaintiff travels regularly to Lakeport for  
22 business and pleasure. Plaintiff intends to return to "**COTTAGE COFFEE SHOP**" in Lakeport,  
23 California when this public accommodation is made accessible.

24 14. Plaintiff encountered and/or is informed and believes that the following  
25 architectural barriers, which violate the requirements of the **California Code of Regulations**  
26 Title 24 and **ADAAG**, existed and continue to exist thereby denying Plaintiff and those similarly  
27 situated full and equal access to the subject public facility as set forth in Paragraph 4 above.

28 15. Defendants, and each of them, discriminated against Plaintiff **HERBERT S.**



1 **OLSON** on the basis of his physical disability, and interfered with his access to the "**COTTAGE**  
2 **COFFEE SHOP**" establishment, in violation of both California law including, but not limited to,  
3 **California Civil Code** §§ 51, 51.5, 54, 54.1, and a violation of Title III, §302, the "Prohibition of  
4 Discrimination" provision and §503, the "Prohibition Against Retaliation or Coercion" provision  
5 of the **Americans with Disabilities Act of 1990**.

6 16. As a result of the actions and failure to act of defendants, and each of them, and  
7 as a result of the failure to provide appropriate accessible parking, proper handicapped  
8 signage, proper accessible entryways, and accessible accommodations for a restaurant,  
9 Plaintiff **HERBERT S. OLSON** suffered and will suffer a loss of his civil rights to full and equal  
10 access to public facilities, and further suffered and will suffer emotional distress, mental  
11 distress, mental suffering, mental anguish, which includes shame, humiliation, embarrassment,  
12 anger, chagrin, disappointment and worry, expectedly and naturally associated with a person  
13 with a physical disability being denied access to a public accommodation, all to his damages  
14 as prayed hereinafter in an amount within the jurisdiction of this court.

15 **I. FIRST CAUSE OF ACTION:**

16 VIOLATION OF **THE AMERICANS WITH DISABILITIES ACT OF 1990**  
17 (42 **USC** §12101 *et seq.*)

18 17. Plaintiff repleads and incorporates by reference, as if fully set forth again herein,  
19 the allegations contained in paragraphs 1 through 16 of this Complaint and incorporates them  
20 herein as if separately repled.

21 18. Pursuant to law, in 1990 the United States Congress made findings per 42 **USC**  
22 § 12101 regarding persons with physical disabilities, finding that laws were needed to more  
23 fully protect 43 million Americans with one or more physical or mental disabilities; [that]  
24 historically society has tended to isolate and segregate individuals with disabilities; [that] such  
25 forms of discrimination against individuals with disabilities continue to be a serious and  
26 pervasive social problem; [that] the nation's proper goals regarding individuals with disabilities  
27 are to assure equality of opportunity, full participation, independent living and economic self-  
28 sufficiency for such individuals; [and that] the continuing existence of unfair and unnecessary  
discrimination and prejudice denies people with disabilities the opportunity to compete on an



1 equal basis and to pursue those opportunities for which our free society is justifiably famous.

2 19. Congress stated as its purpose in passing the **Americans with Disabilities Act**  
3 **of 1990** (42 **USC** § 12102):

4 It is the purpose of this act (1) to provide a clear and comprehensive  
5 national mandate for the elimination of discrimination against individuals with  
6 disabilities; (2) to provide clear, strong, consistent, enforceable standards  
7 addressing discrimination against individuals with disabilities; (3) to ensure that  
8 the Federal government plays a central role in enforcing the standards  
9 established in this act on behalf of individuals with disabilities; and (4) to invoke  
10 the sweep of Congressional authority, including the power to enforce the 14th  
11 Amendment and to regulate commerce, in order to address the major areas of  
12 discrimination faced day to day by people with disabilities.

13 20. As part of the **Americans with Disabilities Act of 1990**, Public Law 101-336  
14 (hereinafter the "ADA"), Congress passed "Title III - Public Accommodations and Services  
15 Operated by Private Entities" (42 **USC** § 12181 *et seq.*). Among the public accommodations  
16 identified for purposes of this title were "a restaurant, bar, or other establishment serving food  
17 or drink;"

18 21. Pursuant to 42 **USC** § 12182,

19 "No individual shall be discriminated against on the basis of disability in  
20 the full and equal enjoyment of the goods, services, facilities, privileges,  
21 advantages, or accommodations of any place of public accommodation by any  
22 person who owns, leases (or leases to), or operates a place of public  
23 accommodation."

24 22. Among the general prohibitions against discrimination were included in 42 **USC**  
25 §12182(b)(1)(A)(i):

26 **Denial of participation.** It shall be discriminatory to subject an individual  
27 or class of individuals on the basis of a disability or disabilities of such individual  
28 or class, directly, or through contractual, licensing, or other arrangements, to a  
denial of the opportunity of the individual or class to participate in or benefit from  
the goods, services, facilities, privileges, advantages, or accommodations of an  
entity.

29 23. Among the general prohibitions against discrimination were included in 42 **USC**  
30 §12182(b)(1)(E):

**Association** -- It shall be discriminatory to exclude or otherwise deny  
equal goods, services, facilities, privileges, advantages, accommodations, or  
other opportunities to an individual or entity because of the known disability of an



individual with whom the individual or entity is known to have a relationship or association.

The acts of defendants set forth herein were a violation of Plaintiff's rights under the ADA, Public Law 101-336, and the regulations promulgated thereunder, 28 **CFR** Part 36 et seq.

24. Among the general prohibitions against discrimination were included in 42 **USC** § 12182(b)(2)(A)(i) and 42 **USC** § 12182(b)(2)(A)(ii):

**Discrimination.** For purposes of subsection (a), discrimination includes -

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations.

25. Plaintiff alleges that constructing the eligibility requirements, policies, practices and procedure for entry to the "**COTTAGE COFFEE SHOP**" facility by persons with disabilities and their companions as established by the defendants can be simply modified to eliminate disparate and discriminatory treatment of persons with disabilities by properly constructing barrier free handicapped access for safe and full and equal enjoyment of the "**COTTAGE COFFEE SHOP**" as that enjoyed by other people.

26. The specific prohibition against retaliation and coercion is included in the **Americans With Disabilities Act of 1990** § 503(b) and the *Remedies and Procedures* in § 503(c):

(b) Interference, Coercion, or Intimidation. - It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

(c) Remedies and Procedure. - The remedies and procedures available under sections 107, 203, and 308 of this Act shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to Title I, Title II and Title III, respectively.



1        27. Among the specific prohibitions against discrimination were included, in 42 **USC**  
2 § 12182(b)(2)(a)(iv), "A failure to remove architectural barriers, and communications barriers  
3 that are structural in nature, in existing facilities...where such removal is readily achievable;"  
4 and (v) "where and entity can demonstrate that the removal of a barrier under clause (iv) is not  
5 readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or  
6 accommodations available through alternative methods if such methods are readily  
7 achievable." The acts of Defendants set forth herein were a violations of Plaintiff's rights under  
8 the "ADA," Public Law 101-336, and the regulations promulgated thereunder, 28 **CFR** Part 36,  
9 *et seq.*

10        28. The removal of the barriers complained of by Plaintiff as hereinabove alleged  
11 were at all times after 1990 "readily achievable." On information and belief, if the removal of all  
12 the barriers complained of here together were not "readily achievable," the removal of each  
13 individual barrier complained of herein was "readily achievable."

14        29. Per 42 **USC** § 12181(9), "The term 'readily achievable' means easily  
15 accomplishable and able to be carried out without much difficulty or expense." The statute and  
16 attendant regulations define relative "expense" in relation to the total financial resources of the  
17 entities involved, including any "parent" companies. Plaintiff alleges that properly repairing  
18 each of the items that Plaintiff complains of herein is readily achievable, including, but not  
19 limited to, correcting and repairing the items set forth in Paragraph 4 above.

20        The changes needed to remove barriers to access for the disabled were and are  
21 "readily achievable" by the defendants under standards set forth under 42 **USC** § 12181 of the  
22 **Americans with Disabilities Act of 1990**. (Further, if it was not "readily achievable" for  
23 defendants to remove all such barriers, defendants have failed to make the required services  
24 available through alternative methods, although such methods are achievable as required by  
25 42 **USC** §12181(b)(2)(a)(iv), (v).)

26        30. Pursuant to the **Americans with Disabilities Act of 1990**, §308 (42 **USC** §  
27 12188 *et seq.*), Plaintiff is entitled to the remedies and procedures set forth in the **Civil Rights**  
28 **Act of 1964** §204(a), (42 **USC** § 2000a-3(a)), as Plaintiff is being subjected to discrimination



1 on the basis of disability in violation of this title and/or Plaintiff has reasonable grounds for  
2 believing that he is about to be subjected to discrimination in violation of **Americans With**  
3 **Disabilities Act of 1990** §302. Plaintiff cannot return to or make use of the public facilities  
4 complained of herein for the purpose of entry and provision of goods and service so long as  
5 defendants continue to apply eligibility criteria, policies, practices and procedures to screen out  
6 and refuse to allow entry and service to persons with disabilities such as Plaintiff's.

7 31. Defendants', and each of their acts and omissions of failing to provide barrier free  
8 handicapped access for Plaintiff, were tantamount to interference, coercion or intimidation  
9 pursuant to **Americans With Disabilities Act of 1990** §503(b) (now 42 **USC** § 12203):

10 It shall be unlawful to coerce, intimidate, threaten, or interfere with any  
11 individual in the exercise or enjoyment of, or on account of his or her having  
12 aided or encouraged any other individual in the exercise or enjoyment of, any  
13 right granted or protected by this Act.

14 32. Per **Americans With Disabilities Act of 1990** § 308(a)(1) (now 42 **USC** §  
15 12188), "Nothing in this section shall require a person with a disability to engage in a futile  
16 gesture if such person has actual notice that a person or organization covered by this title does  
17 not intend to comply with its provisions." Pursuant to this last section, Plaintiff, on information  
18 and belief, alleges that defendants have continued to violate the law and deny the rights of  
19 Plaintiff and other disabled persons to access this public accommodation for the purpose of  
20 dining. Therefore, Plaintiff seeks injunctive relief pursuant to §308(a)(2),

21 "...Where appropriate, injunctive relief shall also include requiring the  
22 provision of an auxiliary aid or service, modifications of a policy, or provision of  
23 alternative methods, to the extent required by this title."

24 33. Plaintiff seeks relief pursuant to remedies set forth in § 204(a) of the **Civil Rights**  
25 **Act of 1964** (42 **USC** § 2000a-3(a), and pursuant to federal regulations adopted to implement  
26 the **Americans with Disabilities Act of 1990**, including, but not limited to, an order granting  
27 injunctive relief and attorneys' fees. Such attorneys' fees, "including litigation expenses and  
28 costs," are further specifically provided for by §505 of Title III.

WHEREFORE, Plaintiff prays for damages as hereinafter stated.

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1 **II. SECOND CAUSE OF ACTION**

2 BREACH OF STATUTORY PROTECTIONS FOR PERSONS WITH PHYSICAL  
3 DISABILITIES (*California Health & Safety Code* § 19955, *et seq.*)

4 34. Plaintiff repleads and incorporates by reference, as if fully set forth again herein,  
5 the allegations contained in paragraphs 1 through 33 of this Complaint and incorporate them  
6 herein as if separately repled.

7 35. *California Health & Safety Code* § 19955 provides in pertinent part:

8 The purpose of this part is to insure that public accommodations or  
9 facilities constructed in this state with private funds adhere to the provisions of  
10 Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the  
11 *Government Code*. For the purposes of this part "public accommodation or  
12 facilities" means a building, structure, facility, complex, or improved area which is  
13 used by the general public and shall include auditoriums, hospitals, theaters,  
14 restaurants, hotels, motels, stadiums, and convention centers. When sanitary  
15 facilities are made available for the public, clients or employees in such  
16 accommodations or facilities, they shall be made available for the handicapped.

17 36. *California Health & Safety Code* § 19956, which appears in the same chapter  
18 as §19955, provides in pertinent part, "accommodations constructed in this state shall conform  
19 to the provisions of Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the  
20 *Government Code*..." *California Health & Safety Code* § 19956 was operative July 1, 1970,  
21 and is applicable to all public accommodations constructed or altered after that date. On  
22 information and belief, portions of "COTTAGE COFFEE SHOP" and/or of its buildings, were  
23 constructed and/or altered after July 1, 1970, and substantial portions of said building had  
24 alterations, structural repairs, and/or additions made to such public accommodations after July  
25 1, 1970, thereby requiring said public accommodations and/or buildings to be subject to the  
26 requirements of Part 5.5, *California Health & Safety Code* § 19955, *et seq.*, upon such  
27 alteration, structural repairs or additions per *California Health & Safety Code* § 19959.

28 37. Pursuant to the authority delegated by *California Government Code* § 4450, *et*  
seq., the State Architect promulgated regulations for the enforcement of these provisions.  
Effective January 1, 1982, Title 24 of the *California Administrative Code* adopted the  
California State Architect's Regulations and these regulations must be complied with as to any  
alterations and/or modifications of the "COTTAGE COFFEE SHOP" occurring after that date.



1 Construction changes occurring prior to this date but after July 1, 1970 triggered access  
2 requirements pursuant to the "ASA" requirements, the **American Standards Association**  
3 **Specifications**, A117.1-1961. On information and belief, at the time of the construction and  
4 modification of said building, all buildings and facilities covered were required to conform to  
5 each of the standards and specifications described in the **American Standards Association**  
6 **Specifications** and/or those contained in Title 24 of the **California Administrative Code**,  
7 (now known as Title 24, **California Code of Regulations**.)

8 38. Public facilities, such as "COTTAGE COFFEE SHOP" are public  
9 accommodations or facilities within the meaning of **California Health & Safety Code** § 19955,  
10 *et seq.*

11 39. It is difficult or impossible for persons with physical disabilities who use  
12 wheelchairs, canes, walkers and service animals to travel about in public to use a restaurant  
13 with the defects set forth in Paragraph 4 above as required by Title 24 of the **California Code**  
14 **of Regulations** and the **Americans with Disabilities Act Access Guidelines (ADAAG)**.  
15 Thus, when public accommodations fail to provide handicap accessible public facilities,  
16 persons with physical disabilities are unable to enter and use said facilities, and are denied full  
17 and equal access to and use of that facility that is enjoyed by other members of the general  
18 public.

19 40. Plaintiff **HERBERT S. OLSON** and other similarly situated persons with physical  
20 disabilities whose physical conditions require the use of wheelchairs, canes, walkers and  
21 service animals are unable to use public facilities on a "full and equal" basis unless each such  
22 facility is in compliance with the provisions of the **California Health & Safety Code** § 19955,  
23 *et seq.* Plaintiff is a member of that portion of the public whose rights are protected by the  
24 provisions of **California Health & Safety Code** § 19955, *et seq.*

25 41. The **California Health & Safety Code** was enacted "[t]o ensure that public  
26 accommodations or facilities constructed in this state with private funds adhere to the  
27 provisions of Chapter 7 (commencing with §4450) of Division 5 of Title 1 of the *Government*  
28 *Code*." Such public accommodations are defined to include restaurants.



1           42. Plaintiff is further informed and believes that as of the date of filing this  
2 Complaint, Defendants have not made accessible the facilities at the subject restaurant as set  
3 forth in Paragraph 4 above.

4           43. Plaintiff **HERBERT S. OLSON** is informed and believes, and therefore alleges,  
5 that Defendants **AARON SCHMADEKE, ALYCE SCHMADEKE, BETTY J. OWENS, Trustee,**  
6 **THOMAS E. STITES, Trustee, and DOES ONE to FIFTY, inclusive,** and each of them,  
7 caused the subject buildings constituting "**COTTAGE COFFEE SHOP**" to be constructed,  
8 altered and maintained in such a manner that persons with physical disabilities were denied full  
9 and equal access to, within and throughout said buildings and were denied full and equal use  
10 of said public facilities, and despite knowledge and actual and constructive notice to such  
11 Defendants that the configuration of the restaurant and/or buildings was in violation of the civil  
12 rights of persons with physical disabilities, such as Plaintiff. Such construction, modification,  
13 ownership, operation, maintenance and practices of such public facilities are in violation of law  
14 as stated in Part 5.5, **California Health & Safety Code** § 19955, *et seq.*, and elsewhere in the  
15 laws of California.

16           44. On information and belief, the subject building constituting the public facilities of  
17 "**COTTAGE COFFEE SHOP**" denied full and equal access to Plaintiff and other persons with  
18 physical disabilities in other respects due to non-compliance with requirement of Title 24 of the  
19 **California Code of Regulations** and **California Health & Safety Code** § 19955, *et seq.*

20           45. The basis of Plaintiff's aforementioned information and belief is the various  
21 means upon which Defendants must have acquired such knowledge, including, but not limited  
22 to, this lawsuit, other access lawsuits, communications with operators of other restaurants and  
23 other property owners regarding denial access, communications with Plaintiff and other  
24 persons with disabilities, communications with other patrons who regularly visit there,  
25 communications with owners of other businesses, notices and advisories they obtained from  
26 governmental agencies through the mails, at seminars, posted bulletins, television, radio,  
27 public service announcements, or upon modification, improvement, alteration or substantial  
28 repair of the subject premises and other properties owned by these Defendants, newspaper



1 articles and trade publications regarding the **Americans with Disabilities Act of 1990** and  
2 other access law, and other similar information. The scope and means of the knowledge of  
3 each defendant is within each defendant's exclusive control and cannot be ascertained except  
4 through discovery.

5 46. As a result of Defendants' acts and omissions in this regard, Plaintiff has been  
6 required to incur legal expenses and hire attorneys in order to enforce his civil rights and  
7 enforce provisions of the law protecting access for persons with physical disabilities and  
8 prohibiting discrimination against persons with physical disabilities, and to take such action  
9 both in his own interests and in order to enforce an important right affecting the public interest.  
10 Plaintiff, therefore, seeks damages in this lawsuit for recovery of all reasonable attorneys' fees  
11 incurred, pursuant to the provisions of the **California Code of Civil Procedure** § 1021.5.  
12 Plaintiff additionally seeks attorneys' fees pursuant to **California Health & Safety Code** §  
13 19953 and **California Civil Code** §§ 54.3 and 55.

14 47. Defendants, and each of them, at times prior to and including October 8, 2007,  
15 and continuing to the present time, knew that persons with physical disabilities were denied  
16 their rights of equal access to all portions of this public facility. Despite such knowledge,  
17 Defendants failed and refused to take steps to comply with the applicable access statutes; and  
18 despite knowledge of the resulting problems and denial of civil rights thereby suffered by  
19 Plaintiff **HERBERT S. OLSON** and other similarly situated persons with disabilities, including  
20 the specific notices referred to in paragraph 43 of this Complaint. Defendants have failed and  
21 refused to take action to grant full and equal access to persons with physical disabilities in the  
22 respects complained of hereinabove. Defendants and each of them have carried out a course  
23 of conduct of refusing to respond to, or correct complaints about, denial of handicap access.  
24 Such actions and continuing course of conduct by Defendants, evidence despicable conduct in  
25 conscious disregard for the rights or safety of Plaintiff and of other similarly situated persons,  
26 justifying an award of treble damages pursuant to **California Civil Code** § 54.3.

27 48. Defendants' actions have also been oppressive to persons with physical  
28 disabilities and of other members of the public, and have evidenced actual or implied malicious



1 intent toward those members of the public, such as Plaintiff and other persons with physical  
2 disabilities who have been denied the proper access they are entitled to by law. Further,  
3 Defendants' refusals on a day-to-day basis to correct these problems evidence despicable  
4 conduct in conscious disregard for the rights of Plaintiff and other members of the public with  
5 physical disabilities.

6 49. Plaintiff prays for an award of treble damages against Defendants, and each of  
7 them, pursuant to **California Civil Code** § 54.3 in an amount sufficient to make a more  
8 profound example of Defendants and discourage owners, operators, franchisers and  
9 franchisees of other public facilities from willful disregard of the rights of persons with physical  
10 disabilities.

11 50. As a result of the actions and failure of Defendants, and each of them, and as a  
12 result of the failure to provide proper accessible public facilities, Plaintiff **HERBERT S. OLSON**  
13 was denied his civil rights, including his right to full and equal access to public facilities, was  
14 embarrassed and humiliated, suffered physical, psychological and mental injuries and  
15 emotional distress, mental distress, mental suffering, mental anguish, which includes shame,  
16 humiliation, embarrassment, anger, chagrin, disappointment and worry, expectedly and  
17 naturally associated with a person with a physical disability being denied access to a public  
18 accommodation.

19 WHEREFORE, Plaintiff prays for damages as hereinafter stated.

20 **III. THIRD CAUSE OF ACTION**  
21 **VIOLATION OF CALIFORNIA'S CIVIL RIGHTS ACTS**  
22 **(California Civil Code §§ 54, 54.1 and 54.3)**

23 51. Plaintiff repleads and incorporates by reference as if fully set forth again herein,  
24 the allegations contained in paragraphs 1 through 50 of this Complaint and incorporates them  
25 herein as if separately replied.

26 52. The public facilities above-described constitute public facilities and public  
27 accommodations within the meaning of **California Health & Safety Code** § 19955 *et seq.* and  
28 were facilities to which members of the public are invited. The aforementioned acts and  
omissions of defendants, and each of them, constitute a denial of equal access to and use and



1 enjoyment of these facilities by persons with disabilities, including Plaintiff **HERBERT S.**  
2 **OLSON**. Said acts and omissions are also in violation of provisions of Title 24 of the  
3 **California Code of Regulations**.

4 53. The rights of Plaintiff, the entitlement of Plaintiff to full and equal access and the  
5 denial by defendants of such rights and entitlements are set forth in **California Civil Code** §§  
6 54, 54.1 and 54.3, to wit:

7 Individuals with disabilities shall have the same right as the...general public  
8 to full and free use of the streets, highways, sidewalks, walkways, public  
buildings, public facilities, and other public places. **California Civil Code** § 54(a).

9 Individuals with disabilities shall be entitled to full and equal access, as  
10 other members of the general public, to accommodations, advantages, facilities,  
11 and privileges of all common carriers, airplanes, motor vehicles, railroad trains,  
12 motor buses, streetcars, boats, or any other public conveyances or modes of  
13 transportation (whether private, public, franchised, licensed, contracted, or  
14 otherwise provided), telephone facilities, adoption agencies, private schools,  
hotels, lodging places, places of public accommodation, amusement or resort,  
and other places to which the general public is invited, subject only to the  
conditions and limitations established by law, or state or federal regulation, and  
applicable alike to all persons. **California Civil Code** § 54.1(a).

15 54. On or about October 8, 2007, Plaintiff **HERBERT S. OLSON** suffered violations  
16 of **California Civil Code** §§ 54 and 54.1 in that he was denied full and equal enjoyment of the  
17 goods, services, facilities and privileges of said **COTTAGE COFFEE SHOP**, as set forth in  
18 paragraph 4 above.

19 Plaintiff was also denied full and equal access to other particulars, including, but not  
20 limited to, those described hereinabove. Plaintiff was also denied use of facilities that he was  
21 entitled to under Title III of the **Americans with Disabilities Act of 1990**.

22 55. As a result of the denial of full and equal enjoyment of the goods, services,  
23 facilities and privileges of defendants' **COTTAGE COFFEE SHOP** due to the acts and  
24 omissions of defendants, and each of them, in owning, operating and maintaining this subject  
25 public facility, Plaintiff suffered violations of his civil rights, including, but not limited to, rights  
26 under **California Civil Code** §§ 54, 54.1, and 54.3, and has and will suffer physical injury,  
27 emotional distress, mental distress, mental suffering, mental anguish, which includes shame,  
28 humiliation, embarrassment, anger, chagrin, disappointment and worry, expectedly and



1 naturally associated with a disabled person's denial of full and equal enjoyment of goods,  
2 services, privileges, etc. all to his damages as prayed hereinafter in an amount within the  
3 jurisdiction of the court. Defendants' actions and omissions to act constituted discrimination  
4 against Plaintiff on the sole basis that Plaintiff was physically disabled.

5 56. Plaintiff seeks damages for the violation of his rights as a disabled person on or  
6 about October 8, 2007, according to proof, pursuant to **California Civil Code** § 54.3, including  
7 a trebling of all statutory and actual damages, general and special, available pursuant to  
8 **California Civil Code** § 54.3(a).

9 57. As a result of defendants' acts and omissions in this regard, Plaintiff **HERBERT**  
10 **S. OLSON** has been required to incur legal expenses and hire attorneys in order to enforce his  
11 rights and enforce provisions of the law protecting the full and equal enjoyment of goods,  
12 services, facilities, privileges of public facilities by the disabled, and those individuals  
13 associated with or accompanied by a person with disabilities, and prohibiting discrimination  
14 against the disabled. Plaintiff, therefore, seeks recovery in this lawsuit for all reasonable  
15 attorneys' fees incurred pursuant to the provisions of **California Civil Code** § 55. Additionally,  
16 Plaintiff's lawsuit is intended not only to obtain compensation for damages to Plaintiff, but also  
17 to compel the defendants to make their goods, services, facilities and privileges available and  
18 accessible to all members of the public with physical disabilities, justifying public interest  
19 attorneys' fees pursuant to the provisions of **California Code of Civil Procedure** § 1021.5.

20 58. The acts and omissions of defendants in failing to provide the required  
21 accessible facilities subsequent to the enactment date and compliance date of the **Americans**  
22 **with Disabilities Act of 1990**, and refusal to make remedial modifications and alterations to its  
23 handicapped parking, handicapped signage, pathways, and other elements as hereinabove  
24 stated, after being notified by patrons before and after the time of Plaintiff's visit and injuries,  
25 on or about October 8, 2007, and all times prior thereto with the knowledge that persons with  
26 disabilities would enter defendants' premises, the reason given therefor, was an established  
27 policy, practice and procedure of refusing and denying entry, thereby denying services to a  
28 person with disabilities and the companions thereof, evidence malice and oppression toward



1 Plaintiff and other disabled persons.

2 59. Plaintiff seeks injunctive relief pursuant to **California Civil Code** § 55 to require  
3 Defendants to comply with federal and state access regulations.

4 60. Defendants have failed to establish a nondiscriminatory criteria, policy, practice  
5 and procedure for entry into said "**COTTAGE COFFEE SHOP**" as hereinabove described.

6 61. As a result of defendants' continuing failure to provide for the full and equal  
7 enjoyment of goods, services, facilities and privileges of said "**COTTAGE COFFEE SHOP**" as  
8 hereinabove described, Plaintiff has continually been denied his rights to full and equal  
9 enjoyment of the subject restaurant, as it would be a "futile gesture" to attempt to patronize  
10 said "**COTTAGE COFFEE SHOP**" with the discriminatory policy in place as hereinabove  
11 described.

12 62. The acts and omissions of defendants as complained of herein in failing to  
13 provide the required accessible facilities subsequent to the enactment date and compliance  
14 date of the **Americans with Disabilities Act of 1990** and refusal to make remedial  
15 modifications and alternations to the architectural barriers as stated herein and in failing to  
16 establish practices, policies and procedures to allow safe access by persons who are disabled  
17 are continuing on a day-to-day basis to have the effect of wrongfully and willfully excluding  
18 Plaintiff and other members of the public who are physically disabled, from full and equal  
19 enjoyment of the subject "**COTTAGE COFFEE SHOP**" as hereinabove described. Such acts  
20 and omissions are the continuing cause of humiliation and mental and emotional suffering of  
21 Plaintiff in that these actions continue to treat Plaintiff as an inferior and second class citizen  
22 and serve to discriminate against him on the sole basis that he is physically disabled. Plaintiff  
23 is unable, so long as such acts and omissions of defendants continue, to achieve full and  
24 equal enjoyment of the goods and services of said "**COTTAGE COFFEE SHOP**" as described  
25 hereinabove. The acts of defendants have legally caused and will continue to cause  
26 irreparable injury to Plaintiff if not enjoined by this court.

27 63. Wherefore, Plaintiff asks this court to preliminarily and permanently enjoin any  
28 continuing refusal by defendants to permit entry to said "**COTTAGE COFFEE SHOP**" and to



1 serve Plaintiff or others similarly situated, and to require defendants to comply forthwith with  
 2 the applicable statutory requirements relating to the full and equal enjoyment of goods and  
 3 services as described hereinabove for disabled persons. Such injunctive relief is provided by  
 4 **California Civil Code** § 55. Plaintiff further requests that the court award statutory costs and  
 5 attorneys' fees to Plaintiff pursuant to **California Civil Code** § 55 and **California Code of Civil**  
 6 **Procedure** § 1021.5, all as hereinafter prayed for.

7 WHEREFORE, Plaintiff prays for compensatory damages, reasonable attorneys' fees  
 8 and costs of suit, as allowed by statute and according to proof.

9 **IV. FOURTH CAUSE OF ACTION**  
 10 **VIOLATIONS OF *UNRUH CIVIL RIGHTS ACT***  
 11 **(*California Civil Code* §§ 51 and 51.5)**

12 64. Plaintiff repleads and incorporates by reference, as if fully set forth again herein,  
 13 the allegations contained in paragraphs 1 through 63 of this Complaint and incorporates them  
 14 herein as if separately repiled.

15 65. Defendants' acts and omissions as specified with regard to the discriminatory  
 16 treatment of Plaintiff **HERBERT S. OLSON** on the basis of his physical disabilities, have been  
 17 in violation of **California Civil Code** §§ 51 and 51.5, the **Unruh Civil Rights Act**, and have  
 18 denied to Plaintiff his rights to "full and equal accommodations, advantages, facilities,  
 19 privileges or services in all business establishments of every kind whatsoever."

20 66. **California Civil Code** § 51 also provides that "[a] violation of the right of any  
 21 individual under the **Americans with Disabilities Act of 1990** (Public Law 101-336) shall also  
 22 constitute a violation of this section."

23 67. **California Civil Code** § 51.5 also provides that

24 "[n]o business establishment of any kind whatsoever shall discriminate against,  
 25 boycott, or blacklist, refuse to buy from, sell to, or trade with any person in this  
 26 state because of the race, creed, religion, color, national origin, sex, disability of  
 27 the person or of the person's partners, members, stockholders, directors,  
 28 officers, managers, superintendents, agents, employees, business associates,  
 suppliers, or customers."

68. As a result of the violation of Plaintiff's civil rights protected by **California Civil**  
**Code** §§ 51 and, 51.5, Plaintiff is entitled to the rights and remedies of **California Civil Code** §



52, including a trebling of actual damages (defined by **California Civil Code** § 52(h) to mean “special and general damages”), as well as reasonable attorneys’ fees and costs, as allowed by statute, according to proof.

WHEREFORE, Plaintiff prays that this court award damages and provide relief as follows:

### PRAYER FOR RELIEF

Plaintiff prays that this court award damages and provide relief as follows:

1. Grant injunctive relief requiring that defendants establish a non-discriminatory criteria policy, practice and procedure permitting entry into the **COTTAGE COFFEE SHOP** in Lakeport, California, for the purpose of obtaining the goods and services accorded therein according to **California Civil Code** §§ 51, 51.5, 52, 54, 54.1, 54.3, and 55, *et seq.*, and Title III of the **Americans with Disabilities Act of 1990**, and grant injunctive relief requiring that Defendants repair and render safe to disabled persons, and otherwise make accessible, all public areas of the restaurant, including, but not limited to, each of the barriers to access identified in Paragraph 4, above, and make such facilities “readily accessible to and usable by individuals with disabilities,” according to the standards of Title 24 of the **California Administrative Code, California Health & Safety Code** § 19955 *et seq.*, and Title III of the **Americans with Disabilities Act of 1990** and the standards of **ADAAG**; and prohibiting operation of the **COTTAGE COFFEE SHOP**, located in Lakeport, California, as a public facility until Defendants provide full and equal enjoyment of goods and services as described hereinabove to physically disabled persons, including Plaintiff;

2. General damages according to proof;

3. Statutory and “actual” damages, including general damages and special damages, according to proof, pursuant to **California Civil Code** §§ 52, and 54.3, and that these damages be trebled;

4. Prejudgment interest on all compensatory damages;

5. Remedies and Procedures available under **Americans with Disabilities Act of 1990** §§ 107, 203 and 308;



Jason K. Singleton,  
Richard E. Grabowski, Attorneys for  
Plaintiff, **HERBERT S. OLSON**

Jason K. Singleton,  
Richard E. Grabowski, Attorneys for  
Plaintiff, **HERBERT S. OLSON**



**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

**I.(a) PLAINTIFFS**

HERBERT S. OLSON

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

CHURCHILL COUNTY, NEVADA

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Jason K. Singleton, Richard E. Grabowski (707) 441-1177  
Singleton Law Group, 611 "L" Street, Suite A, Eureka, CA 95501

**DEFENDANTS**

AARON SCHMADEKE, ALYCE SCHMADEKE, dba COTTAGE COFFEE SHOP, BETTY J. OWENS, Trustee of the BETTY J. OWENS REVOCABLE TRUST OF 1994, THOMAS E. STITES, as Trustee of the THOMAS E. STITES Trust dated January 28, 1999, and DOES ONE TO FIFTY, inclusive

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

**II. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. ORIGIN**

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ Original Proceeding  
☐ Removed from State Court  
☐ Remanded from Appellate Court  
☐ Reinstated or Reopened  
☐ Transferred from Another district (specify) \_\_\_\_\_  
☐ Multidistrict Litigation  
☐ Appeal to District Judge from Magistrate Judgment

**V. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl.Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input checked="" type="checkbox"/> 446 Amer w/ disab - Empl <input type="checkbox"/> 446 Amer w/ disab - Other <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**VI. CAUSE OF ACTION** (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 USC §1331, Violations of the Americans With Disabilities Act of 1990 (42 USC §12101 et seq.)

**VII. REQUESTED IN COMPLAINT:** ☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$ \_\_\_\_\_ CHECK YES only if demanded in complaint:  
UNDER F.R.C.P. 23 according to proof JURY DEMAND: ☒ YES ☐ NO

**VIII. RELATED CASE(S) IF ANY** PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

**IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)**  
(PLACE AND "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND☐ SAN JOSE

DATE

SIGNATURE OF ATTORNEY OF RECORD

January 24, 2008